

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
September 30, 2002

D037820 People v. Woodall

The judgment is affirmed. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

D039495 People v. Nguyen

Judgment affirmed. McConnell, J.; We Concur: Benke, Acting P.J., Nares, J.

**D040673 Ray F. et al. v. Superior Court of San Diego County/San Diego County Health and
Human Services Agency**

By failing to file a timely petition for writ relief for petitioner Ray F., the notice of intent is deemed to be abandoned. The case is dismissed.

D037140 People v. Depass

Petition for rehearing is denied.

D037921 Proud v. San Pasqual Union School District

The judgment is reversed and the matter is remanded for further proceedings consistent herewith.
McIntyre, J.; We Concur: Huffman, Acting P.J., Haller, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 1, 2002

D038961 Gregg v. Revelle et al.

The judgment is affirmed. Kremer, P.J.; We Concur: Benke, J., Nares, J.

D038748 Dickinson v. Lejins et al.

Order affirmed. Dickinson to bear costs on appeal. Haller, J.; We Concur: Huffman, Acting P.J., McConnell, J.

D040198 In re the Marriage of Duchene

The appeal is dismissed.

D037529 Allan et al. v. First Healthcare Group et al.

The judgment is affirmed. Each party is to bear its own costs on appeal. McIntyre, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

D040334 Adoption of Michael B., a Minor

Upon filing a written abandonment of appeal, the appeal as to appellant-cross respondent Shonna G. is dismissed (Cal. Rules of Court, rule 38).

Cross appellants' and respondents', William and Mary B., opening brief is due 30 days from the date of this order.

D038336 Olson v. ARV Assisted Living, Inc.

The judgment is affirmed. Benke, J.; We Concur: Kremer, P.J., Nares, J.

D038031 Short v. United Services Automobile Association

Judgment affirmed. Benke, J.; We Concur: Kremer, P.J., Nares, J.

D039400 People v. Rossmiller

The judgment is affirmed. Haller, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D040635 People v. Martinez

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 38).

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 2, 2002

D038941 People v. Leyva

D039191 People v. Leyva

(consolidated) Judgments affirmed. O'Rourke, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D037672 People v. Izydorski

The judgment is affirmed. O'Rourke, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D039432 People v. Nickeson

Judgment affirmed. Huffman, J.; We Concur: Benke, Acting P.J., Nares, J.

D037862 Bennett, et al. v. French, et al.

Judgments of dismissal affirmed. Huffman, Acting P.J.; We Concur: Haller, J., McConnell, J.

D038250 People v. Jones et al.

D039422 (consolidated) The court is instructed to modify the judgment as to defendant Penton to reflect a sentence of one third the midterm in San Bernardino County case No. FV1010921. The court is ordered to correct the abstract of judgment and to forward a corrected copy to the Department of Corrections. In all other respects the judgments are affirmed. The petition is denied. Nares, J.; We Concur: Kremer, P.J., Benke, J.

D038798 Jarzowski v. St. Francis Seminary, Archdiocese of San Diego et al.

The judgment is affirmed. Nares, Acting P.J.; We Concur: Haller, J., McIntyre, J.

D038647 Bryer v. Venable et al.

The judgment is reversed. The superior court is directed to vacate and set aside the judgment and dismiss the action with prejudice. The remittitur is to issue immediately. The parties shall bear their own costs on appeal. Kremer, P.J.; We Concur: Haller, J., McIntyre, J.

D036223 People v. Armstead

The convictions for counts 4, 5 and 9 are reversed. The convictions for counts 1 through 3 and 6 through 8 are affirmed. The San Diego Superior Court is directed to permit Armstead to exercise his right to withdraw his guilty pleas and admissions for the affirmed convictions in accordance with this opinion. Huffman, Acting P.J.; We Concur: Nares, J., McIntyre, J.

D040895 In re Jonathan S., a Juvenile

In that Suzanne P. is not a party, she may not appeal. The appeal is dismissed.

D038013 People v. Gonzalez

The judgment is affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., McDonald, J.

D038665 In re Kevin W., a Juvenile

The order is affirmed. O'Rourke, J.; We Concur: Huffman, Acting P.J., McDonald, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 2, 2002 (continued)

D039083 People v. Guillen

The judgment is affirmed. Kremer, P.J.; We Concur: Benke, J., McDonald, J.

D038913 People v. Romero

The judgment is affirmed. O'Rourke, J.; We Concur: Huffman, Acting P. J., McDonald, J.

**D040462 Melissa B. v. Superior Court of San Diego County/San Diego County Health and
Human Services Agency**

The petition is denied. Benke, Acting P.J.; We Concur: Huffman, J., O'Rourke, J.

D037868 People v. Hickey

The request for publication is denied.

D039515 In re L. Y. L., a Juvenile

It is ordered that the opinion filed September 4, 2002, is modified. There is no change in judgment. The petition for rehearing is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 3, 2002

D038794 San Diego Trolley, Inc., et al. v. Superior Court of the County of San Diego/Kinder

At the time the petitioner in this matter was filed, real party in interest Dannielle M. Kinder did not have access to correspondence between petitioner San Diego Trolley, Inc., and its workers' compensation insurer which discussed the condition of a trolley driver, petitioner Sherly Ann Cooper. By way of a separate opinion we have directed that the Clerk of the Court of Appeal unseal portions of the correspondence.

Access to the correspondence may have a material bearing on Kinder's right to conduct the deposition which is the subject of the petition. In particular, the correspondence may provide some of the information Kinder initially sought by way of the deposition; on the other hand the correspondence might also give rise to new lines of legitimate inquiry. Thus the parties should have an opportunity to bring the correspondence to the attention of the trial court and fully litigate its ramifications.

Accordingly, our November 16, 2001 order to show cause is discharged as improvidently issued, the stay is vacated and the petition is dismissed without prejudice to petitioners' right to renew their motion for a protective order in the trial court.

D038794 San Diego Trolley, Inc., et al. v. Superior Court of the County of San Diego/Kinder

Because no privilege prevents their disclosure and because they are needed to fairly adjudicate Cooper's claims, the letters must be unsealed. (Trolley I, supra, 87 Cal. App.4th at p. 1091.) Moreover, because all three letters are necessary to fully set forth in state of Trolley's knowledge, we will order all three unsealed, with redactions of matter unrelated to Kinder's claim.

Accordingly, when the remittitur issues, the Clerk of the Court of Appeal is directed to redact the last paragraph from Bates-stamp document 87, redact the first paragraph from Bates-stamp 88, and to unseal in redacted form Bates-stamp documents numbers 82, 86, 87 and 88, currently on file in Trolley I.2 This decision is final as to this court immediately. (Cal. Rules of Court, rule 24(d).) Kinder is to recover her costs. Benke, Acting P.J.; We Concur: Nares, J., Haller, J.

D037174 Wisniewski v. Presidio Place Condominium Association et al.

The petition for rehearing is denied.

D037868 People v. Hickey

The request by Appellate Defenders, Inc. to file an amicus curiae brief is denied. To the extent that request constituted a petition for rehearing, the petition for rehearing is denied. Further the opposition of Appellate Defenders, Inc. to the request for publication is deemed moot since the request for publication has been denied.

D037953 People v. Burke

The appellant's convictions in San Diego County Superior Court Case No. SCN103402 under Vehicle Code section 23153, subdivision (a) and Vehicle Code section 23153, subdivision (b) are reversed and the true findings on the section 12022.7, subdivision (a) and section 12022.7, subdivision (b) allegations related to those convictions are stricken. The matter is remanded to the trial court with directions that it prepare an amended abstract of judgment reflecting this modification and to forward a copy of the amended abstract to the Department of Corrections. In all other respects, the judgment is affirmed. McDonald, Acting P.J.; We Concur: O'Rourke, J., McConnell, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 3, 2002 (continued)

D040885 People v. Johnson

The denial of a petition for writ of habeas corpus is not appealable. The appeal is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 4, 2002

D037162 Wisniewski v. Presidio Place Condominium Association et al.

The petition for rehearing is denied.

D039016 People v. Parchman

The judgment is affirmed as modified. The trial court shall advise the Department of Corrections of the modification. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

D038022 In re Hector C., a Juvenile

The judgment is affirmed. Kremer, P.J.; We Concur: Benke, J., Haller, J.

D036401 Barratt American, Inc. v. Transcontinental Insurance Company

We affirm that portion of the judgment granting declaratory relief regarding Transcontinental's duty to defend under the policy. We also affirm that portion of the judgment granting a directed verdict for Transcontinental on Barratt's claim that it was entitled to recover defense costs before its June 1997 tender letter. We reverse the judgment in all other respects. Transcontinental to recover costs on appeal. Certified for Partial Publication. Haller, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D039434 In re C.M., a Juvenile

The order is affirmed. Benke, Acting P.J., We Concur: Huffman, J., McConnell, J.

D036593 People v. Avila

The petition for rehearing is denied.

D038769 People v. Graham

The judgment is affirmed. McDonald, J.; We Concur: Kremer, P.J., Benke, J.

D040704 Belvedere et al. v. Superior Court of San Diego County/Long et al.

The petition is denied.

D040464 Parker v. Superior Court of San Diego County/The People

Because a verdict has been returned in the trial court, the petition is dismissed as moot. The stay issued on July 19, 2002, is vacated.

D040674 In re Williams on Habeas Corpus

The petition is denied.

D040712 In re Sergio on Habeas Corpus

The petition is denied.

D039807 In re Rueben W., a Juvenile

The judgment is affirmed. Kremer, P.J.; We Concur: Huffman, J., Haller, J.

D040607 Santos v. Workers' Compensation Appeals Board et al.

The petition is denied. Real party in interest Rose, Munns & Chinn's request for attorney fees is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 4, 2002 (Continued)

D040847 County of San Diego v. Superior Court of San Diego County/Toner et. al.
The petition is denied.

D040849 Sutherland et al. v. Superior Court of San Diego County/Weil
The petition is dismissed.

D040860 Owens v. Superior Court of San Diego County/People
The petition is denied.

D040850 People v. Superior Court of San Diego County/ McAllister
The petition is denied.

D040710 In re Walker on Habeas Corpus
The petition is denied.

D040809 Collins v. Superior Court of San Diego County/People
The petition for writ of mandate is denied.

D040883 Nagast v. Superior Court of San Diego County/People
The petition is denied.

D040713 In re George on Habeas Corpus
The petition is denied.

D040703 In re Issac on Habeas Corpus
The petition is denied without prejudice to refile after consideration by the superior court.

D040715 In re Laurie on Habeas Corpus
The petition is denied without prejudice to filing the petition in the proper court.

D040705 In re Martin on Habeas Corpus
The petition is denied.